EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2004-1858-PST-E TCEQ ID: RN101662930 CASE NO.: 21940 RESPONDENT NAME: LEO JOHNSON DBA CONNALLY CENTER

ODDED TVDE		
ORDER TYPE:		
_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
X FINDINGS DEFAULT ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER	
AMENDED ORDER	EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
TYPE OF OPERATION: Out-of-service un SMALL BUSINESS: X Yes OTHER SIGNIFICANT MATTERS: Ther regarding this facility location. INTERESTED PARTIES: No one other that COMMENTS RECEIVED: The Texas Reg. CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Xavier Guer Ms. Jennifer Coo. TCEQ Enforcement Coordinator: TCEQ Regional Contact: Mr. Fran Respondent: Mr. Leo Johnson, Own	ED: 103 East Crest Drive, Waco, McClennan derground storage tank system No e are no complaints. There is no record of add in the ED and the Respondent has expressed an ister comment period expired on March 24, 200 ra, Litigation Division, MC R-13, (210) 403-40 ok, Litigation Division, MC 175, (512) 239-187 Ms. Rebecca Clausewitz, Water Enforcement & Burleson, Waco Regional Office, MC R-9, (200 ner, Connally Center, 4315 Woodland Park Driented by counsel on this enforcement matter.	itional pending enforcement actions interest in this matter. 08. No comments were received. 016 73 Section, MC R-13, (210) 403-4012 254) 761-3001

RESPONDENT NAME: LEO JOHNSON DBA CONNALLY CENTER DOCKET NO.: 2004-1858-PST-E

VIOLATION SUMMARY CHART: VIOLATION INFORMATION PENALTY CONSIDERATIONS CORRECTIVE ACTIONS TAKEN/REQUIRED Type of Investigation: Total Assessed: \$26,000 **Technical Requirements** The Respondent shall undertake the Complaint Total Deferred: \$0 following technical requirements: X Routine Enforcement Follow-up **Expedited Settlement** Records Review __ Financial Inability to Pay 1. Within 60 days, the Respondent shall complete either of the following two Date of Complaints Relating to this Case: None options: SEP Conditional Offset: \$0 Dates of Investigation Relating to this Case: Option 1: September 21, 2004 Total Due to General Revenue: \$26,000 a. Monitor USTs for releases: Date of NOE Relating to this Case: This is a Default Order. The Respondent has b. Ensure that the UST system has not actually paid any of the assessed penalty but November 5, 2004 been emptied of all regulated will be required to do so under the terms of this substances; **Background Facts:** Order. c. Provide corrosion protection for The EDPRP was filed on August 1, 2005, and mailed to the all underground metal components Respondent via certified mail, return receipt requested, and Site Compliance History Classification of the UST system; via first-class mail, postage pre-paid. The United States High X Average Poor d. Submit documentation that Postal Service returned the wrapper sent by certified mail as demonstrates acceptable financial "unclaimed." The first class mail has not been returned. Person Compliance History Classification assurance for taking corrective indicating that the Respondent received notice of the High X Average Poor action and for compensating third EDPRP. The Respondent has been contacted several times parties for bodily injury and by phone and urged to file an answer. The respondent was Major Source: Yes X No property damage caused by also sent a "last chance" letter on October 23, 2007, with a accidental releases arising from the copy of the Default Order and instruction on how to file an Applicable Penalty Policy: September 2002 operation of petroleum USTs; and answer and avoid default. The Respondent has failed to e. Cap, plug, answer the EDPRP, failed to request a hearing, and failed lock, and/or otherwise secure all piping, pumps, to schedule a settlement conference. manways, tank access points, and ancillary equipment. The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report. Permanently remove the UST system from service. **PST** 2. Within 75 days, submit written 1. Failed to permanently remove from service, no later certification as described, and include than 60 days after the prescribed upgrade implementation detailed supporting documentation including photographs, receipts, and/or date, an existing UST system for which any applicable component of the system was not brought into timely other records to demonstrate compliance compliance with the upgrade requirements [30 Tex. ADMIN. with these Ordering Provisions. CODE § 334.47(a)(2)]. 2. Failed to empty the system of any residue from stored regulated substances which remained in the temporarily out of service UST system exceeding a depth of 2.5 cm at the deepest point, and exceeding 0.3 percent by weight of the system at full capacity [30 Tex. ADMIN. CODE § 334.54(d)(2)].

RESPONDENT NAME: LEO JOHNSON DBA CONNALLY CENTER DOCKET NO.: 2004-1858-PST-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
3. Failed to cap, plug, lock and/or otherwise secure all piping, pumps, manways, tank access points and ancillary equipment to prevent access, tampering, or vandalism by unauthorized persons [30 Tex. ADMIN. CODE § 334.54(b)].		TAKENKEQUIKED
4. Failed to amend UST registration information within 30 days from the date on which the owner or operator first became aware of the change or addition [30 Tex. Admin. Code § 334.7(d)(3) and Tex. Water Code § 26.346].		
5. Failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 Tex. Admin. Code § 37.815(a) and (b)].		
6. Failed to provide corrosion protection for the UST system [30 Tex. ADMIN. CODE § 334.49(a) and Tex. WATER. CODE § 26.3475(d)].	,	
7. Failed to monitor USTs for releases at least once per month (not to exceed 35 days between each monitoring) [30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. WATER. CODE § 26.3475(c)(1)].		
		• •

	-				
Page 1 of 1	6 07/25/08	C:\WINDOWS\TEMP\XPgrp	wise\PCW2, Connally Center,	2004-1858-PST-E.qpw	
	Pe	enalty Calculation	Worksheet (PCW)		
Policy Revision 2	(September 2002)			PCW Revision May 17,	2004
TCEQ		l ·			
DATES					William Control
PCW	16-Feb-2004	Screening 17-Nov-2004	Priority Due 15-Feb-2005	EPA Due	
RESPONDENT/FACI	·				32,000,000
•		oa Connally Center			
Reg. Ent. Ref. No.					
		age Tank Facility ID No. 478			
Facility/Site Region	9-Waco		Major/Minor Source	Minor Source	<
CASE INFORMATION					
Enf./Case ID No.			No. of Violations		
	2004-1858-PST	-E	Order Type		<
Case Priority			Enf. Coordinator		
Media Program(s)	Petroleum Stora	age Tank	EC's Team	Enforcement Team 2	<
B R . 1(* B R . 1* .	1				

Ent./Case ID No.				No.	or violations	1	
Docket No.		-PST-E			Order Type		·
Case Priority	3				. Coordinator		
Media Program(s)	Petroleum	Storage Tank		<	EC's Team	Enforcement Tea	am 2 <
Multi-Media			T				,
Admin. Penalty \$ Lir	nit Minimi	um \$0	<u> Maximum</u>	\$10,000			
		Pena	alty Calcul	ation Sect	ion		
			_				
TOTAL BASE PEN	ALTY (S	um of violatio	n base pena	lties)		Subtotal 1	\$26,000
a) in the country that he had been as the control of the control o	ut i an eil beseite i den sellemente in 19 einem b	in de la comita del la comita de la comita de la comita del la c	n je net s diskri iza na na kateletirat izan 🖣 digir angeleri sebuarah	got kalanda a	electrical describerate de la describición.	finitialiteinee minemakselt in kain tillittis.	3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3
ADJUSTMENTS (+	/-) TO SI	JBTOTAL 1					
Subtotals 2-7 are of	otained by mu	ultiplying the Total Bas	e Penalty (Subtotal ·	1) by the indicated p	ercentage.	adillisidelikilisisillasidesiside edelekti	Delinia Cardonia del Viden.
Compliance Hi		grands constitut		Enhancement	Subi	otals 2, 3, & 7	\$0
	•					militari mencentina (4-110 falenti: le con-	
Notes		No change due to	o average perfoi	mer classification	on.		
					· · · · · · · · · · · · · · · · · · ·		
Culpability	No	<	0%	Enhancement		Subtotal 4	\$0
		I manual			agentagenne papara a sava e sa		Non-presentational that out wo
Notes	Т	he Respondent d	oes not meet th	e culpability crite	eria.		
L		* 344.4.7					
Good Faith Eff	ort to Cor	nnlv	0%	Reduction		Subtotal 5	\$0
	Before NO\	a de la como de la compansión de la comp				Subiotal 5	φυ
Extraordinary			7				
Ordinary			1				
N/A T	Х	(mark with a sma	□ x)				
Natas		7h - D					
Notes		The Respon	dent is not yet ir	n compliance.			
		''''	······································				
Economic Ben	efit	and the second second second second	0%	Enhancement*		Subtotal 6	\$0
To	otal EB Amou	ınts \$11,378		*Capped at the To	otal EB \$ Amount	d of the desired days associated about the later to the l	77717111
Approx. Cos	st of Complia	nce \$24,150					
Anglikh had if trophin allefyllegelin gessyr sammyrdyng gargan symrommer am magamene y gyner.			***************************************				
SUM OF SUBTOTA	LS 1-7					inal Subtotal	\$26,000
The same of the same and the sa				The Control Control of the Control o	vice committee in the second of the second s	re-terminal and the standard of the standard o	
OTHER FACTORS	AS JUS	TICE MAY RE	QUIRE			Adjustment	\$0
Reduces or enhances the Fina	l Subtotal by	the indicated percenta	ge. <i>(Enter number</i>	only; e.g30 for -30	0%.)		
Notes					-		
Notes							
_					Final Pe	naity Amount	\$26,000
							420,000
STATUTORY LIMIT	ADJUS	TMENT			Final Asse	ssed Penalty	\$26,000
 GBC Second Collision of the second of Collision of the second of the seco	medikkimulik da baba Ababi	sees at title eesti mik liktoimila liktistefiyilije.	Saran and Made Saca Madalahada Si	o de describilistas confessiones	Pari Politikaria e Bioari asila	santalat la activita de la companya	NE PROPERTY MEN MANAGEMENT
DEFERRAL				Ĭ	Reduction	Adjustment	\$0
Reduces the Final Assessed P	enalty by the	indicted percentage.	(Enter number only:	· 13	ALC: THE CORPORATION AND A STREET	Latin Colonia and Street Land Cons	No. 35 Co. Called Spice M. M.
				1000			•
Notes		No deferral due to	expiration of e	xpedited proces	s.		
L		- · · · · · · · · · · · · · · · · · · ·	·		<u> </u>		
PAYABLE PENALT	Υ			7.000			\$26,000

C:\WINDOWS\TEMP\XPgrpwise\PCW2, Connally Center, 2004-1858-PST-E.qpw Screening Date 17-Nov-2004 Docket No. 2004-1858-PST-E Respondent Leo Johnson dba Connally Center Policy Revision 2 (September 2002) Case ID No. 21940 PCW Revision May 17, 2004 Reg. Ent. Reference No. RN101662930 Additional ID No(s). Petroleum Storage Tank Facility ID No. 47814 Media [Statute] Petroleum Storage Tank Enf. Coordinator Kent Heath 103 East Crest Drive, Waco, McLennan County Site Address Compliance History Worksheet >> Compliance History Site Enhancement (Subtotal 2) Component Number of... Written NOVs with same or similar violations as those in the current 0% enforcement action (number of NOVs meeting criteria) **NOVs** Other written NOVs 0% 0 Any agreed final enforcement orders containing a denial of liability 0% (number of orders meeting criteria) Any adjudicated final enforcement orders, agreed final enforcement orders Orders without a denial of liability, or default orders of this state or the federal 0 government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of **Judaments** 0 0% judgements or consent decrees meeting criteria) and Consent Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial Decrees 0 0% of liability, of this state or the federal government Any criminal convictions of this state or the federal government (number Convictions 0 0% of counts) Emissions Chronic excessive emissions events (number of events) 0 0% Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 0 0% 74th Legislature, 1995 (number of audits for which notices were **Audits** Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for 0 0% which violations were disclosed) Please Enter Yes or No Environmental management systems in place for one year or more N/A 0% Voluntary on-site compliance assessments conducted by the executive N/A 0% director under a special assistance program Other Participation in a voluntary pollution reduction program N/A 0% Early compliance with, or offer of a product that meets future state or N/A 0% federal government environmental requirements

		Adjustment Percentage (Subtotal 2)	0%
>> Repeat Violator (Subt	otal 3)		
No	<	Adjustment Percentage (Subtotal 3)	0%
>> Compliance History F	Person Clas	sification (Subtotal 7)	
Average Performer	<	Adjustment Percentage (Subtotal 7)	0%
>> Compliance History S	ummary		
Compliance History Notes		No change due to average performer classification.	
- Landers of the Contract of t			

Total Adjustment Percentage (Subtotals 2, 3, & 7)

0%

Page 3 of 16 07/25/08 C:\WINDOWS\TEMP\XPgrpwise\PCW2, Connally Center, 2004-1858-PST-E.qpw Screening Date 17-Nov-2004 Docket No. 2004-1858-PST-E Respondent Leo Johnson dba Connally Center Policy Revision 2 (September 2002) Case ID No. 21940 PCW Revision May 17, 2004 Reg. Ent. Reference No. RN101662930 Additional ID No(s). Petroleum Storage Tank Facility ID No. 47814 Media [Statute] Petroleum Storage Tank Enf. Coordinator Kent Heath Violation Number Primary Rule Cite(s) 30 Tex. Admin. Code § 334.47(a)(2) Secondary Rule Cite(s) Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing underground Violation Description storage tank (UST) system for which any applicable component of the system was not brought into timely compliance with the upgrade requirements. Base Penalty \$10,000 Environmental, Property and Human Health Matrix Release Major Moderate OR Actual Potential Percent 25% Programmatic Matrix >> **Falsification** Major Moderate Minor Percent Failure to permanently remove from service all non-compliant USTs could Matrix Notes result in the exposure of a significant amount of contaminants which would exceed levels that are protective to human health and the environment. Base Penalty Subtotal \$2,500 Violation Events Number of Violation Events dailv monthly Violation Base Penalty mark only one quarterly \$5,000 use a small x semiannual annual single event Two quarterly events are recommended based on documentation of the violation during the September 21, 2004, investigation, to the February 23, 2005, settlement deadline, to make the penalty commensurate with the situation. Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$4,553 Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits)

\$5,000

Case ID No. Reg. Ent. Reference No. Additional ID No(s). Media [Statute] Violation No. Item Description Delayed Costs	RN101662930 Petroleum Sto Petroleum Sto	rage Tank Fac		14 Yrs		Percent Interest 5.0	Years of Depreciation
Media [Statute] Violation No. Item Description Delayed Costs	Petroleum Sto 1 ltem Cost	rage Tank Date	Final			Interest	Depreciation
Description Delayed Costs	Cost			Yrs	r ()	5.0	4 =
Description Delayed Costs	Cost			Yrs		expended for Control of State (No. 2).	15
Delayed Costs	No commas or \$				Interest Saved	Onetime Costs	EB Amount
F					Assistant Sales Editor		welfteer lisetige
F!							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$(
Other (as needed)				0.0	\$0	\$0	\$(
Engineering/construction	\$10,000	22-Feb-1999	23-Aug-2005	6.5	\$217	\$4,336	\$4,553
Land				0.0	\$0	n/a	\$(
Record Keeping System				0.0	\$0 🖁	n/a	\$(
Training/Sampling				0.0	\$0	n/a	\$(
Remediation/Disposal				0.0	\$0	n/a	\$(
Permit Costs				0.0	\$0	n/a	\$(
Other (as needed)				0.0	\$0	n/a	\$(
Notes for DELAYED costs			nently remove d to be removed				
Avoided Costs	ANNI	JALIZE [1] avoide	d costs before en				
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$(
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$(
Supplies/equipment				0.0	\$0	\$0	\$(
Financial Assurance [2]				0.0	\$0	\$0	\$(
ONE-TIME avoided costs [3]				0.0	\$0	. \$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance	\$10,000				¥7	TOTAL	\$4,553

.

C:\WINDOWS\TEMP\XPgrpwise\PCW2, Connally Center, 2004-1858-PST-E.qpw Screening Date 17-Nov-2004 Docket No. 2004-1858-PST-E Respondent Leo Johnson dba Connally Center Policy Revision 2 (September 2002) Case ID No. 21940 PCW Revision May 17, 2004 Reg. Ent. Reference No. RN101662930 Additional ID No(s). Petroleum Storage Tank Facility ID No. 47814 Media [Statute] Petroleum Storage Tank Enf. Coordinator Kent Heath Violation Number 30 Tex. Admin. Code § 334.54(d)(2) Primary Rule Cite(s) Secondary Rule Cite(s) Failure to empty the system of any residue from stored regulated substances which remained in the temporarily out of service UST system exceeding a depth of 2.5 centimeters (cm) at the deepest point, and Violation Description exceeding 0.3 percent by weight of the system at full capacity. Specifically, the investigator documented 3 inches or 7.4 cm of product present in tank no. 3. **Base Penalty** \$10,000 Environmental, Property and Human Health Matrix Harm Moderate Release OR Actual 25% Potential Percent Programmatic Matrix Falsification Major Moderate Minor Percent Failure to empty the system of any residue from stored regulated substance could result in the exposure of a significant amount of Matrix Notes contaminants which would exceed levels that are protective to human health and the environment. Adjustment -\$7,500 \$2,500 Base Penalty Subtotal Violation Events Number of Violation Events daily monthly Violation Base Penalty mark only one quarterly \$5,000 use a small : semiannua. annua Two quarterly events are recommended based on documentation of the violation during the September 21, 2004, investigation, to the February 23, 2005, settlement deadline, to make the penalty commensurate with the situation. Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits)

\$5,000

Page 6 of 16 07/25			KPgrpwise\PCV		~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	004-1858-PS I	-⊨.qpw
	allikaria da Aballe delektra i kalanda da karanda	ด้วยวันที่เพียงให้สามหน้าเป็น คารีเมาการจะได้ระบน ที่ เกิดได้ขาดกัน	enefit Wo	rkshe	et		
	Leo Johnson	iba Connally C	enter				
Case ID No.							
Reg. Ent. Reference No.			::::	4.4			
Additional ID No(s). Media [Statute]		•	ality ID No. 478	14		Percent	Years of
Violation No.		rage rank				:: 44400 7485- 0.440, N9 800	Depreciation
		nonmanto de seculiare de del			Mark of Caronic Broads	5.0	15
	Item	Date	Final	Yrs	Interest	Onetime	EB
Item	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$						
. Die Sollen im der Source der Geber der Sollen der Sollen der	i ar a comunica e consistence e a comunicación de la comunicación de susta de la comunicación de susta de la c	efficient of the desire of the second of the	i i i namindrol (1811) v i Kris Vicencia deben kie medilet	a la la la maria a malli di La la la la malli di Amerika a la cam	en and and an analysis of the second		administration of the analysis of the con-
Delayed Costs							
Equipment				0.0	\$0	\$0	\$(
Buildings				0.0	\$0	\$0	\$(
Other (as needed)				0.0	\$0	\$0	\$(
Engineering/construction				0.0	\$0	\$0	\$(
Land				0.0	\$0	n/a	\$(
Record Keeping System				0.0	\$0	n/a	\$(
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$500	21-Sep-2004	25-Aug-2005	0.9	\$23	n/a	\$23
Permit Costs			·	0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$(
Notes for DELAYED costs			system of any				
Notes for BEEATED Costs	required	is the investig	ation date. Fin	al date	is the estimate	d date of comp	oliance.
E							
Avoided Costs	ANN	UALIZE [1] avoide	ed costs before en	tering ite	em (except for one	-time avoided co	sts)
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$(
Financial Assurance [2]				0.0	\$0	\$0	\$(
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$(
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
1.0003 101 74 010 00 00303							
!! -							
Approx. Cost of Compliance	\$500					TOTAL	\$23

o

C:\WINDOWS\TEMP\XPgrpwise\PCW2, Connally Center, 2004-1858-PST-E.gpw Page 7 of 16 Screening Date 17-Nov-2004 Docket No. 2004-1858-PST-E Respondent Leo Johnson dba Connally Center Policy Revision 2 (September 2002) Case ID No. 21940 PCW Revision May 17, 2004 Reg. Ent. Reference No. RN101662930 Additional ID No(s). Petroleum Storage Tank Facility ID No. 47814 Media [Statute] Petroleum Storage Tank Enf. Coordinator Kent Heath Violation Number 30 Tex. Admin. Code § 334.54(b) Primary Rule Cite(s) Secondary Rule Cite(s) Failure to cap, plug, lock and/or otherwise secure all piping, pumps, Violation Description manways, tank access points and ancillary equipment to prevent access, tampering, or vandalism by unauthorized persons. **Base Penalty** \$10,000 Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor OR Actual Potential Percent Programmatic Matrix Falsification Moderate Minor Percent Failure to cap, plug, lock and/or otherwise secure all piping, pumps, manways, tank access points and ancillary equipment could result in Matrix Notes exposure of a significant amount of contaminants which would not exceed levels that are protective to human health and the environment. Adjustment -\$9,000 \$1,000 Base Penalty Subtotal Violation Events Number of Violation Events daily monthly Violation Base Penalty \$2,000 mark only one quarterly use a small x semiannual annual single event Two quarterly events are recommended based on documentation of the violation during the September 21, 2004, investigation, to the February 23, 2005, settlement deadline. Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$5 **Violation Final Penalty Total** \$2,000

This violation Final Assessed Penalty (adjusted for limits)

	E	conomic E	Benefit Wo	rksh	eet		
Respondent Case ID No. Reg. Ent. Reference No. Additional ID No(s).	RN101662930)		14	o de la constanción de la composición		
Media [Statute] Violation No.		rage Tank	·			Percent Interest	Years of Depreciation
			ne Agran, such stan.			5.0	1:
	Item	Date	Final	Yrs	Interest	Onetime	EB
Item	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$		rady I Corse		and a second to the second and the second and the		
Delayed Costs					XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX		
Equipment				0.0	\$0	\$0	\$
Buildings				0.0	\$0	\$0	\$
Other (as needed)				0.0	\$0	\$0	\$
Engineering/construction				0.0	\$0	\$0	\$
Land				0.0	\$0	n/a	\$
Record Keeping System				0.0	\$0	n/a	\$
Training/Sampling				0.0	\$0	n/a	\$
Remediation/Disposal				0.0	\$0	n/a	\$
Permit Costs			l	0.0	\$0	n/a	\$
Other (as needed)	\$100	21-Sep-2004	25-Aug-2005	0.9	\$5	n/a	\$
Notes for DELAYED costs ,					s, manways and ate is the estim		
Avoided Costs	ANN	UALIZE [1] avoide	ed costs before en	tering it	em (except for one	e-time avoided co	osts)
Disposal				0.0	\$0	\$0	\$(
Personnel				0.0	\$0	\$0	\$(
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$(
Supplies/equipment				0.0	\$0	\$0	\$(
Financial Assurance [2]				0.0	\$0	\$0	\$(
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$(
Other (as needed)				0.0	\$0	\$0	\$(
Notes for AVOIDED costs			·				
Approx. Cost of Compliance	\$100		· · · · · · · · · · · · · · · · · · ·			TOTAL	\$
whereve cost of combinance	φ100				189	IUIAL	3

Page 9 of 16 07/2	5/08 C:\WINDOWS\TE	EMP\XPgrpwise\PCW2, Connally Center,	2004 - 1858-P	ST-E.qpw
Screening Dat	₱ 17-Nov-2004	Docket No. 2004-1858-PST-E		PGW
Responder	t Leo Johnson dba Con	nally Center	Policy Revis	ion 2 (September 2002)
Case ID No	21940		PCW	Revision May 17, 2004
Reg. Ent. Reference No	RN101662930			
Additional ID No(s	. Petroleum Storage Ta	ink Facility ID No. 47814		
March 1997 1997 1997 1997 1997 1997 1997 1997 1997 1997 1997 1997 1997 1997 1	Petroleum Storage Ta	ınk		•
Enf. Coordinate				
Violation Number		Tex. Admin. Code § 334.7(d)(3)	1	
Primary Rule Cite(s Secondary Rule Cite(s	·	Tex. Water Code § 26.346		
Secondary Rule Offers		ST registration information within 30 days	from the	
Violation Descriptio	n date on which the ow addition. Specificall	oner or operator first became aware of the ly, Mr. Johnson falled to amend the regist out-of-service status of the UST system.	change or	
		Ва	se Penalty	\$10,000
>> Environmental, P	operty and Human	Health Matrix		
The second state of the second	Harm	rakuru- Ununga dungkungan banga kalubarah 600 sebah dalah dari bang kabapat melalukan bebahan dalah dalah dala Sebahan	ALC:	
Releas		Minor		
OR Actu		Percent	7	
1 0.01	* <u> </u>		⊒	
>> Programmatic Ma	trix 🔻			
Falsification	n Major Moderate	Minor Percent 10%		
Matrix Notes	100% of the rule	requirement was not met.		
See al Library of the figure of the first		Adjustment	-\$9,000	
•		Base Penalt	ty Subtotal	\$1,000
Violation Events				
Number of Viola	ition Events 1			
mark only on	daily	Violation Ba	se Penalty	\$1,000
use a small	x semiannual annual single event x		- 1	
One		ended based on documentation of the tember 21, 2004, investigation.		
Economic Benefii	(EB) for this violati	ion Statutory Limit	Test	100 mg.
Estimated	EB Amount \$5	Violation Final Pe	nalty Total	\$1,000

This violation Final Assessed Penalty (adjusted for limits)

\$1,000

	E	conomic E	Benefit Wo	rkshe	et	Agranga panasa	
Respondent Case ID No. Reg. Ent. Reference No. Additional ID No(s).	RN101662930)		14	e garrina adalescribina de Secreta, labora Case	and de la company de la co	inter till av era Skalandisk kalandisk filologisk som av ekk s
Media [Statute]	1	rage Tank			To a	Percent	Years of
Violation No.	4	karani in iliana are ililahisi	en antigen en e	onderfestiese	na programa programa (i	Interest	Depreciation
					L	5.0	15
ltem	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$					00015	
Delayed Costs					Severance in		
Equipment			1	0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land			1	0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0 🖔	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)			25-Aug-2005	0.9	\$5 🖁	n/a	\$5
Notes for DELAYED costs	Estimated of required	cost to comple is the investig	te and submit thation date. Fina	ne regis al date i	tration and self s the estimated	f-certification f	orm. Date bliance.
Avoided Costs	ANN	UALIZE [1] avoid	ed costs before en				
Disposal				0.0	\$0	\$0	\$0
Personnel	<u> </u>			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			1	0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0 \$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0 6 0	\$0	\$0
Other (as needed)		<u></u>	JL	0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
	\$100						

This violation Final Assessed Penalty (adjusted for limits)

\$3,000

ar al la company de la comp	E	conomic E	Benefit Wo	rksh	eet		T William will
Case ID No. Reg. Ent. Reference No. Additional ID No(s).	Leo Johnson 21940 RN101662930 Petroleum Sto	dba Connally () orage Tank Fac	Center	ngo kata diganci pooli ya jili y	og_ocurations contains c	anthough a decider (de 1924) (ce dese	
Media [Statute]		rage Tank				Percent	Years of
Violation No.	5	Tomana di karakan jini nilakin sandan		alithinkeesia.		Interest	Depreciation
						5.0	15
ltem	Item Cost	Date Required	Final	Yrs	Interest	Onetime	EB
Description	No commas or \$	Required	Date		Saved	Costs	Amount
	ino cominas or a				and the second second second second		
Delayed Costs	ant an his annual desirence				Aner Laker da Mariose v		
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)		,		0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	. \$0	n/a	\$0
Notes for DELAYED costs Avoided Costs							
Avoided Costs Disposal	ANN	JALIZE [1] avoide	ed costs before en	Janes			
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0 80	\$0	\$0
Supplies/equipment				0.0	\$0 \$0	\$0	\$0
Financial Assurance [2]				0.0	\$0 \$0	\$0 \$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0 \$0	\$0 \$0	\$0 \$ 0
Other (as needed)	\$1,950	21-Sen-2003	21-Sep-2004	1.0	\$98	\$1,950	\$0
Notes for AVOIDED costs	Estimated cos	st to provide fir	nancial assuran e. Final date is	ce for	three (3) USTs	Date require	\$2,048 d is one year requirement.
Approx. Cost of Compliance	\$1,950					TOTAL	\$2,048

Page 13 of 16 07/25/08 C:\WINDOWS\TEMP\XPgrpwise\PCW2, Connally Center, 2004-1858-PST-E.qpw Screening Date 17-Nov-2004 Docket No. 2004-1858-PST-E Respondent Leo Johnson dba Connally Center Policy Revision 2 (September 2002) Case ID No. 21940 PCW Revision May 17, 2004 Reg. Ent. Reference No. RN101662930 Additional ID No(s). Petroleum Storage Tank Facility ID No. 47814 Media [Statute] Petroleum Storage Tank Enf. Coordinator Kent Heath Violation Number Primary Rule Cite(s) 30 Tex. Admin. Code § 334.49(a) Tex. Water Code § 26.3475(d) Secondary Rule Cite(s) Violation Description Failure to provide corrosion protection for the UST system. Base Penalty \$10,000 >> Environmental, Property and Human Health Matrix Harm Release Moderate OR Actual Potential Percent 25% **Programmatic Matrix** Falsification Moderate Percent Failure to provide corrosion protection for a UST system could result in the Matrix Notes exposure of a significant amount of contaminants which would exceed levels that are protective to human health and the environment. Adjustment Base Penalty Subtotal \$2,500 **Violation Events** Number of Violation Events daily monthly quarterly Violation Base Penalty mark only one X \$5,000 use a small x semiannual annual Two quarterly events are recommended based on documentation of the violation during the September 21, 2004, investigation, to the February 23, 2005, settlement deadline, to make the penalty commensurate with the situation. Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount Violation Final Penalty Total \$4,676 \$5,000

This violation Final Assessed Penalty (adjusted for limits)

\$5,000

iga(st.)	E	conomic E	Benefit Wo	rkshe	et	te transfer (a trans	and the grant
Respondent Case ID No. Reg. Ent. Reference No. Additional ID No(s).	Leo Johnson o 21940 RN101662930	iba Connally C	enter		a i mest e dilidad di kake i vi braza e	ellisites et et anticipat es es austra	Patria de la composição d La composição de la compo
Media [Statute]		•		Percent	Years of		
Violation No.						Interest	Depreciation
						5.0	15
	ltem	Date	Final	Yrs	Interest	Onetime	EB
Item	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$				han door many assessment and the first refull to		
Delayed Costs	September State Williams					annona december or control control or control	
Equipment Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	22-Dec-1998	25-Aug-2005	6.7	\$223	\$4,453	\$4,676
Land				0.0	\$0	n/a	\$0
Record Keeping System		,		0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	i n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	Estimated co corrosion	st to install cor protection was	rosion protections required to be com	n for th installe pliance	d. Final date	. Date require is the estimate	d is the date d date of
Avoided Costs	ANN	JALIZE [1] avoide	d costs before ent	ering ite	m (except for on	e-time avoided co	sts)
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs			,				
Approx. Cost of Compliance	\$10,000				E S	TOTAL	\$4,676

Page 15 of 16 07/25/08 C:\WINDOWS\TEMP\XPgrpwise\PCW2, Connally Center, 2004-1858-PST-E.qpw Screening Date 17-Nov-2004 Docket No. 2004-1858-PST-E Respondent Leo Johnson dba Connally Center Policy Revision 2 (September 2002) Case ID No. 21940 PCW Revision May 17, 2004 Reg. Ent. Reference No. RN101662930 Additional ID No(s). Petroleum Storage Tank Facility ID No. 47814 Media [Statute] Petroleum Storage Tank Enf. Coordinator Kent Heath Violation Number 30 Tex. Admin. Code § 334.50(b)(1)(A) Primary Rule Cite(s) Tex. Water Code § 26.3475(c)(1) Secondary Rule Cite(s) Failure to monitor USTs for releases at least once per month (not to **Violation Description** exceed 35 days between each monitoring). Base Penalty \$10,000 **>>**: Environmental, Property and Human Health Matrix Harm Release Moderate Minor OR Actual Percent Potential 25% **Programmatic Matrix** Falsification Percent Failure to monitor the USTs for releases could result in the exposure of a Matrix Notes significant amount contaminants which would exceed levels that are protective to human health and the environment. Adjustment -\$7,500 Base Penalty Subtotal \$2,500 Violation Events Number of Violation Events daily monthly mark only one quarterly Violation Base Penalty \$5,000 use a small : semiannual annual single event Two quarterly events are recommended based on documentation of the violation during the September 21, 2004, investigation, to the February 23, 2005, settlement deadline, to make the penalty commensurate with the situation: Economic Benefit (EB) for this violation Statutory Limit Test **Estimated EB Amount** \$69 Violation Final Penalty Total \$5,000 This violation Final Assessed Penalty (adjusted for limits)

\$5,000

Additional ID No(s). Media [Statute] Violation No.	Petroleum Sto		and who has the delay station of the second			Percent Interest	Years of Depreciation
						5.0	15
ltem	Item	Date	Final	Yrs	Interest	Onetime	EB
교사는 여름을 모르자 살린다 배를 열심하는데 다	Cost No commas or \$	Required	Date		Saved	Costs	Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$C
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land			• •	0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling			-	0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a:	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Sep-2004	25-Aug-2005	0.9	\$69	n/a	\$69
Notes for DELAYED costs Avoided Costs		Final	elease detectior date is the estir	nated d	ate of compliar	nce.	
Avoided Costs Disposal	ANN	JALIZE [1] avoide	d costs before ent	ering ite		~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	····
Personnel				0.0	\$0 \$0	\$0 \$0	<u> </u>
spection/Reporting/Sampling				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Supplies/equipment				0.0	\$0	\$0	\$0 \$0
Financial Assurance [2]				0.0	\$0 \$0	\$0 \$0	\$0 \$0
ONE-TIME avoided costs [3]				0.0	\$0 \$0	\$0	

TOTAL

\$69

\$1,500

Approx. Cost of Compliance

Compliance History

Customer/Respondent/Owner-Operator.	CN602729717	JOHNSON, LEO		Classification	: AVERAGE	Rating: 3.010
Regulated Entity:	RN101662930	CONNALLY CENTER		Classification BY DEFAUL	: AVERAGE	Site Rating: 3.01
ID Number(s):	PETROLEUM STOREGISTRATION	ORAGE TANK	REGIST	RATION .		47814
Location:	103 E CREST DF	R, WACO, TX, 76705		Rating Date:	9/1/04 Repeat	/iolator: NO
TCEQ Region:	REGION 09 - WA	co				
Date Compliance History Prepared:	November 17, 200			. ,	<u>.</u>	
Agency Decision Requiring Compliance History:	Enforcement		•			·
Compliance Period:	November 17, 199	99 to January 17, 2004	·			
TCEQ Staff Member to Contact for Additional Inform Name: Kent Heath		Compliance History one: (512) 239-44	575		•	
	` Site	Compliance History Co	omponents			
1. Has the site been in existence and/or operation fo	•		Yes	,		
2. Has there been a (known) change in ownership of3. If Yes, who is the current owner?	f the site during the c	ompliance period? .	No			
4. if Yes, who was/were the prior owner(s)?			N/A N/A			- : :
5. When did the change(s) in ownership occur?		•	N/A		•	- ,
6. Comments:				· · · ·	· · · · · · · · · · · · · · · · · · ·	.
Components (Multimedia) for the Site :	•				·	; •
A. Final Enforcement Orders, court judgement	ents, and consent de	crees of the state of Texa	s and the federal	government.		
N/A					•	
B. Any criminal convictions of the state of T	exas and the federal	government.		,		
N/A	•					• • • •
C. Chronic excessive emissions events.	:		٠.			
N/A		•				•
D. The approval dates of investigations. (CC	CEDS Inv. Track. No.)			<i>:</i>	
N/A		•				
E. Written notices of violations (NOV). (CCE	EDS Inv. TrackNo.)			•		
N/A				•		
F. Environmental audits.						
N/A G. Type of environmental management syst	ems (FMSs)					
N/A		,	•			
H. Voluntary on-site compliance assessmen	nt dates.	•				
N/A			: .			
I. Participation in a voluntary pollution redu	ction program.					•
N/A						
J. Early compliance.	•	J	•			.· :
N/A	• • •			· .		
Sites Outside of Texas N/A	:					
*****						•

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
LEO JOHNSON DBA CONNALLY	§	
CENTER,	§	ENVIRONMENTAL QUALITY
RN101662930	§	

DEFAULT ORDER DOCKET NO. 2004-1858-PST-E

At its	agenda, the Texas Commission on Environmental Quality,
("Commission" or "TCEQ") con	sidered the Executive Director's Preliminary Report and Petition
filed pursuant to TEX. WATER C	CODE chs. 7 and 26, and the rules of the TCEQ, which requests
appropriate relief, including the in	mposition of an administrative penalty and corrective action of the
respondent. The respondent mad	de the subject of this Order is Leo Johnson dba Connally Center
("Mr. Johnson").	

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

- 1. Mr. Johnson owns an out-of-service underground storage tank ("UST") system located at 103 East Crest Drive, Waco, McClennan County, Texas (the "Facility").
- 2. Mr. Johnson's underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Johnson's USTs contain a regulated substance as defined in the rules of the Commission.
- 3. During an inspection on September 21, 2004, a TCEQ Waco Regional Office investigator documented that Mr. Johnson:
 - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system was not brought into timely compliance with the upgrade requirements;

- b. Failed to empty the system of any residue from stored regulated substances which remained in the temporarily out of service UST system exceeding a depth of 2.5 centimeters (cm) at the deepest point, and exceeding 0.3 percent by weight of the system at full capacity;
- c. Failed to cap, plug, lock and/or otherwise secure all piping, pumps, manways, tank access points and ancillary equipment to prevent access, tampering, or vandalism by unauthorized persons;
- d. Failed to amend UST registration information within 30 days from the date on which the owner or operator first became aware of the change or addition;
- e. Failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;
- f. Failed to provide corrosion protection for the UST system; and
- g. Failed to monitor USTs for releases at least once per month (not to exceed 35 days between each monitoring.)
- 4. Mr. Johnson received notice of the violations on or about November 10, 2004.
- 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Leo Johnson dba Connally Center" (the "EDPRP") in the TCEQ Chief Clerk's office on August 1, 2005.
- 6. By letter dated August 1, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Johnson with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Johnson received notice of the EDPRP.
- 7. More than 20 days have elapsed since Mr. Johnson received notice of the EDPRP, provided by the Executive Director. Mr. Johnson failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Johnson is subject to the jurisdiction of the TCEQ pursuant to Tex. Water Code chs. 7 and 26, and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 3.a., Mr. Johnson failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system was not brought into timely compliance with the upgrade requirements, in violation of 30 Tex. ADMIN. CODE § 334.47(a)(2).
- 3. As evidenced by Finding of Fact No. 3.b., Mr. Johnson failed to empty the system of any residue from stored regulated substances which remained in the temporarily out of service UST system exceeding a depth of 2.5 cm at the deepest point, and exceeding 0.3 percent by weight of the system at full capacity, in violation of 30 Tex. ADMIN. CODE § 334.54(d)(2).
- 4. As evidenced by Finding of Fact No. 3.c., Mr. Johnson failed to cap, plug, lock and/or otherwise secure all piping, pumps, manways, tank access points and ancillary equipment to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 Tex. ADMIN. CODE § 334.54(b).
- 5. As evidenced by Finding of Fact No. 3.d., Mr. Johnson failed to amend UST registration information within 30 days from the date on which the owner or operator first became aware of the change or addition, in violation of 30 Tex. ADMIN. CODE § 334.7(d)(3) and Tex. WATER CODE § 26.346.
- 6. As evidenced by Finding of Fact No. 3.e., Mr. Johnson failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 Tex. ADMIN. CODE § 37.815(a) and (b).
- 7. As evidenced by Finding of Fact No. 3.f., Mr. Johnson failed to provide corrosion protection for the UST system, in violation of 30 Tex. ADMIN. CODE § 334.49(a) and Tex. WATER CODE § 26.3475(d).
- 8. As evidenced by Finding of Fact No. 3.g., Mr. Johnson failed to monitor USTs for releases at least once per month (not to exceed 35 days between each monitoring), in violation of 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1).

- 9. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Johnson with proper notice of the EDPRP, as required by Tex. WATER CODE § 7.055 and 30 Tex. Admin. Code § 70.104(c)(2).
- 10. As evidenced by Finding of Fact No. 7, Mr. Johnson has failed to file a timely answer to the EDPRP, as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Mr. Johnson and assess the penalty recommended by the Executive Director.
- 11. Pursuant to Tex. Water Code § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Johnson for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 12. An administrative penalty in the amount of twenty six-thousand dollars (\$26,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 13. Tex. Water Code §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Johnson is assessed an administrative penalty in the amount of twenty-six thousand dollars (\$26,000.00) for violations of Tex. Water Code chs. 7 and 26, and rules of the TCEQ. The payment of this administrative penalty and Mr. Johnson's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Leo Johnson dba Connally Center; Docket No. 2004-1858-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. Mr. Johnson shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Order, Mr. Johnson shall complete either of the following two options:
 - i. Option 1:
 - A. Monitor USTs for releases, in accordance with 30 Tex. ADMIN. CODE § 334.50 (relating to Release Detection);
 - B. Ensure that the UST system has been emptied of all regulated substances in accordance with applicable provisions of 30 Tex. ADMIN. CODE § 334.54(d) (relating to Empty Systems);
 - C. Provide corrosion protection for all underground metal components of the UST system, in accordance with 30 Tex. ADMIN. CODE § 334.49 (relating to Corrosion Protection); and
 - D. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 Tex. Admin. Code § 37.815(a) and (b) to:

Mr. Rob Norris, Senior Financial Analyst Financial Assurance Unit, MC 184 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

E. Cap, plug, lock, and/or otherwise secure all piping, pumps, manways, tank access points, and ancillary equipment in accordance with 30 Tex. Admin. Code § 334.54(b).

- ii. Option 2: Permanently remove the UST system from service, in accordance with 30 Tex. ADMIN. Code § 334.55 (relating to Permanent Removal from Service).
- b. Within 75 days after the effective date of this Order, Mr. Johnson shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with either Ordering Provision Nos. 2.a.i.A. through 2.a.i.E., or 2.a.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Mr. Frank Burleson, Waste Section Manager Texas Commission on Environmental Quality Waco Regional Office 6801 Sanger Avenue, Suite 2500 Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.

- 4. The provisions of this Order shall apply to and be binding upon Mr. Johnson. Mr. Johnson is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 5. If Mr. Johnson fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Johnson's failure to comply is not a violation of this Order. Mr. Johnson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Johnson shall notify the Executive Director within seven days after Mr. Johnson becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Johnson shall be made in writing to the Executive Director. Extensions are not effective until Mr. Johnson receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Johnson if the Executive Director determines that Mr. Johnson has not complied with one or more of the terms or conditions in this Order.
- 8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 Tex. ADMIN. CODE § 70.106(d) and Tex. Gov't Code § 2001.144.

Leo Johnson dba Connally Center DOCKET NO. 2004-1858-PST-E Page 8

SIGNATURE PAGE

mmaz A O	COLOTOSTA T	ONT TO TO TO ONTO A TONITO A T	OTTATIONS
TEXAS	COMMISSION	ON ENVIRONMENTAL	OUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS

COUNTY OF BEXAR

§ §

"My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Leo Johnson dba Connally Center" (the "EDPRP") with the Office of the Chief Clerk on August 1, 2005.

I sent the EDPRP to Mr. Johnson at his last known address on August 1, 2005, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Johnson received notice of the EDPRP. Mr. Johnson failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference".

Xavier Guerra

Attorney

Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25th day of January A.D., 2008.

CYNTHIA L. WILLIAMS B.

Novary Public State of Texas B.

tamp Commission Expires **JULY 17, 2010** Notary without Bond